

MINUTES
KITTY HAWK TOWN COUNCIL
February 1, 2016
Kitty Hawk Town Hall, 6 PM

Agenda

1. Call to Order
2. Moment of Silence/Pledge of Allegiance
3. Approval of Agenda
4. Recognitions/Presentations
 - Police Officer II William Deaton, 5 Years of Service
5. Public Comment
6. Consent Agenda
 - a.) Approval of January 4, 2016 Council Minutes
 - b.) Revenues and Expenses Report for December 2015
 - c.) Donation to the Police Department
 - d.) Draft Budget Calendar for FY 16-17
 - e.) Disaster Related Debris Recovery Agreement
 - f.) Request to Fill Finance Officer Position
 - g.) Appointment of Interim Finance Officer
 - h.) Fire Department Positions
 - i.) FY 15-16 Budget Amendment #4
 - j.) FY 15-16 Budget Amendment #5
 - k.) Appointment to the Albemarle Transportation Advisory Committee
 - l.) 2016 Street Improvements
 - m.) Resolution Directing the Application to the Local Government Commission for Approval of Special Obligation Bonds, Requesting Local Government Commission Approval of the Town's Special Obligation Bonds and Certain Related Matters
7. Items Removed from the Consent Agenda
8. Public Hearings
 - a.) Text Amendment: Application for a text amendment that would allow vehicle rentals in the BC-2 district under certain conditions.
 - b.) Conditional Use Permit: Application for a Conditional Use Permit to allow a vehicle rental business at 500 Sand Dune Drive, Units A and B.
 - c.) Conditional Use Permit: Shared parking agreement between the proposed Wendy's location at 5430 N. Croatan Highway and the adjacent Shoreside Shopping Center location at 5400 N. Croatan Highway.
 - d.) Conditional Use Permit: Application to issue a formal approval of the existing sewage treatment plant located at 5400 N. Croatan Highway, Shoreside Center, as well as approval for the proposed Wendy's to tie into the existing system.
9. Planning
 - a.) Unfinished Business: Application for a Conditional Use Permit to allow construction of a medical office at 5201 N. Croatan Highway.

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- b.) Site Plan Review: Site plan application for new construction and development of Wendy's to be located at 5430 N. Croatan Highway.
- c.) Call for Public Hearing: Application for a Conditional Use Permit to allow a fitness center at 500 Sand Dune Drive. The public hearing will be scheduled for March 7, 2016.
- 10. Reports or General Comments from Town Manager
 - a.) Thank You to Public Works Staff
 - b.) Rabbit Hollow Project Update
 - c.) Fire Department Insurance Service Office Inspection
 - d.) Beach Nourishment Bid Opening
 - e.) Thank you do DOT and Comments on Recycling Center
- 11. Reports or General Comments from Town Attorney
 - a.) Update on Easements for Beach Nourishment
- 12. Reports or General Comments from Town Council
 - a.) RPO Update
- 13. Public Comment
- 14. Adjourn

COUNCIL MEMBERS PRESENT:

Mayor Gary Perry, Mayor Pro Tem Craig Garriss, Councilman Ervin Bateman, Councilwoman Lynne McClean and Councilman Jeff Pruitt

STAFF MEMBERS PRESENT:

Town Manager Andy Stewart, Town Clerk Lynn Morris, Town Attorney Steve Michael, Management Assistant Melody Clopton, Finance Officer Charlene Allen, Town Planner Rob Testerman, Police Chief Joel Johnson, Fire Chief Lowell Spivey and Public Works Director Willie Midgett

OTHERS PRESENT: Attorney Ben Gallop representing the Town on agenda item 9(a).

1. CALL TO ORDER

Mayor Perry called this meeting to order at 6 p.m. and welcomed everyone in attendance.

2. MOMENT OF SILENCE/PLEDGE OF ALLEGIANCE

Following a moment of silence the Pledge of Allegiance was recited.

3. APPROVAL OF AGENDA

Mayor Perry reported that 8(c) dealing with shared parking at the proposed Wendy's location does not need to be discussed.

MPT Garriss made a motion to approve the agenda as amended by the mayor. Councilman Bateman seconded and it passed unanimously, 5-0.

4. RECOGNITIONS AND PRESENTATIONS

- **Police Officer II William Deaton, 5 Years of Service**

Chief Johnson presented a plaque to Officer William Deaton recognizing his five years of service with the Town.

5. PUBLIC COMMENT

1. Clyde Hargrave, 5206 Lindbergh Avenue, Kitty Hawk, NC: *Mr. Mayor and members of the council I was here last month to talk with you about the 5201 property on North Croatan Highway. I asked to meet with the mayor, Rob Testerman and the engineer to discuss some ideas I had that I thought might help get this problem solved. Subsequently I met with Rob and Michael Strader with Quible Engineering and we talked. I want to reiterate what I had to say that night and touch on a couple of other things.*

I understand the engineer has revised a drawing to some degree that shows some grading changes, tweaks that will help to some degree. I am not certain it will help a lot or totally resolve the problem but I do think it will help. I also understand when DOT looked at the encroachment agreement application it had bollards across Byrd Street. I did not see that on the previous drawings. It may be there and I overlooked it but I have not seen it. That is what we are being told and if Byrd Street is opened up entirely then they would have to do a traffic study which we would certainly welcome. We do not want to see Byrd Street opened up. I said it that night and I reiterate it again today. We think it causes problems with traffic on Byrd Street. On changeover day it will cause additional traffic on Ride Lane ... that the Town does not maintain people cutting down behind the furniture store to get over on the new Byrd Street up to 158 trying to beat traffic on turnover day. We think that is a major issue.

Imagine if you will, along the property line behind the houses fronting Lindbergh Avenue, a wall approximately 4 feet tall and above that another 2 feet of additional fill that would stand above that wall and a parking lot up there at that elevation. That is what is going to be put across the back of these properties. Again, we think that is a damming effect. We do not see how that will not have an adverse effect on our properties as far as flooding in that area.

I would like to point out again that we want to see the property developed. We welcome the medical center. We just want it to be done in such a way that it does not impact us.

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Again, think about that wall across the back of the property and the problems. It is going to invite the water and where is that water going to go? That sort of thing.

We are concerned about the lighting. I understand it will be handled by a permit, with a town department permit issued.

The other thing is we still think the building could be ... the footprint of the building could be changed to some degree to be able to get the property ... to get the building sited on the property in such a way that it can be moved to the back of the property. I understand from Michael Strader of Quible that he has looked at that many ways, gone back and took some more shots at it and decided that this was the best approach. That may or may not be the case. I don't know.

One other thing I would like to mention is that if you go back and look at the flood protection ordinances I think this directly disregards your own Town ordinances regarding flood plain protection.

That is all I have and I would be glad to make other comments if the board opens this back up for discussion.

Perry: Thank you. Does anyone else wish to speak during this public comment part?

No one else came forward.

6. CONSENT AGENDA

a.) Approval of January 4, 2016 Council Minutes. *(An affirmative vote for the consent agenda will approve these minutes.)*

b.) Revenues and Expenses Report for December 2015. *(An affirmative vote for the consent agenda will acknowledge this report.)*

c.) Donation to the Police Department. The police department has received \$50 from Beverly Trotman and Wrenn Turner and the police chief would like to use the money for future purchases of automated external defibrillators (AEDs). *(An affirmative vote for the consent agenda will accept this donation and use of funds.)*

d.) Draft Budget Calendar for FY 16-17. The Town Manager has submitted a draft budget calendar to the Town Council for approval. It includes dates and times to meet with department heads for review of departmental budgets, a proposed date of April 18, 2016, 9 a.m. for a budget work session with council and a proposed date of June 6, 2016, 6 p.m. for a public hearing and adoption of the budget. *(An affirmative vote for the consent agenda will approve this calendar.)*

e.) Disaster Related Debris Recovery Agreement. This is an updated version of an agreement the Town has with the State. In the event of a declaration of a State of Disaster or Imminent Threat of Disaster and/or a State of Emergency the Town will be able to remove and dispose of disaster related debris on all released State System Roads and FEMA will be able to provide reimbursement for emergency services. *(An affirmative vote for the consent agenda will approve this agreement.)*

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f.) Request to Fill Finance Officer Position. With the upcoming finance officer vacancy on February 19, 2016 staff has begun the process of advertising the position. *(An affirmative vote for the consent agenda will acknowledge this action.)*

g.) Appointment of Interim Finance Officer. Effective February 19, 2016 it is requested the Town Manager be appointed Interim Finance Officer until a new officer is hired. *(An affirmative vote for the consent agenda will approve this action.)*

h.) Fire Department Positions. With the retirement of a Fire Captain on February 29, 2016 the Fire Chief would like to fill this vacancy via internal applicants (Grade 62). Upon promotion a firefighter position will be vacant and the Fire Chief would like to fill this opening (Grade 59). *(An affirmative vote for the consent agenda will approve these actions.)*

i.) FY 15-16 Budget Amendment #4. This amendment recognizes and appropriates \$300 in donations to the police department for the purchase of automated external defibrillators (AEDs). *(An affirmative vote for the consent agenda will adopt this amendment.)*

j.) FY 15-16 Budget Amendment #5. This amendment recognizes and appropriates fund balance for unanticipated costs for combined increases in solid waste collection and disposal charges. *(An affirmative vote for the consent agenda will adopt this amendment.)*

k.) Appointment to the Albemarle Regional Planning Organization Transportation Advisory Committee (ARPO TAC). Councilwoman McClean will replace Mayor Perry on this committee. A two year term is customary, term to expire February 28, 2018. *(An affirmative vote of the consent agenda will recognize this appointment.)*

l.) 2016 Street Improvements. After soliciting quotes for various street improvements the Public Works Director is suggesting RPC Contracting, Inc. be awarded the contract in the amount of \$36,500.00 to be paid from the Powell Bill Fund. The project includes the resurfacing of W. Balchen and W. Wilkins Streets and sections of Byrd Street, Beacon Drive and the intersection of Sanderlin Street and Lindbergh Avenue. *(An affirmative vote of the consent agenda will award the contract to RPC Contracting.)*

m.) Resolution Directing the Application to the Local Government Commission for Approval of Special Obligation Bonds; Requesting Local Government Commission Approval of the Town's Special Obligation Bonds; and Certain Related Matters. This Findings Resolution, prepared by Scott Leo, Bond Counsel, is required to be approved by Town Council. It includes consideration of the issuance of a special obligation bond in an aggregate principal amount not to exceed \$10,300,000 to finance the beach nourishment project and pay the costs of issuing the special obligation bonds. Of the amount not to exceed listed above, approximately \$5,900,000 will be debt service to be paid back from the Dare County Beach Nourishment funds and approximately \$4,400,000 from Town of Kitty Hawk Beach Nourishment Capital Project Fund. This resolution defines the project, gives Town staff the authority to submit an application to the Local Government Commission (LGC) for the financing of the Beach Nourishment Capital Project and makes the findings required by the LGC to support the Town's application. *(An affirmative vote of the consent agenda will adopt this resolution.)*

Councilman Bateman made a motion, seconded by Councilman Pruitt, to approve the consent agenda. The vote was unanimous, 5-0.

7. ITEMS REMOVED FROM THE CONSENT AGENDA

No items were removed from the consent agenda.

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8. PUBLIC HEARINGS

a.) Text Amendment: Application for a text amendment that would allow vehicle rentals in the BC-2 district under certain conditions.

Councilwoman McClean made a motion to go into public hearing. The motion was seconded by Councilman Bateman and it passed unanimously, 5-0.

Planning Director Testerman provided a brief review of the staff report in the borders below.

Proposal

The applicant's proposal would add the following wording as subsection 42-251(c)(34) of the Town Code:

42-251(c)34 Vehicle rentals, subject to any reasonable conditions imposed by the town council and the following specific conditions:

- a.) No more than three rental vehicles to be parked in the front of the building, the remainder of the fleet shall be parked in the rear, or interior of the building.
- b.) Total number of rental vehicles shall not exceed fifteen.
- c.) Site must have sufficient interior storage for vehicle accessories.
- d.) Location must have counter area with restrooms.
- e.) No high occupancy vehicles included in the fleet.
- f.) Rental vehicle repair and/or maintenance shall not be performed on site.
- g.) Vehicle rental business shall not be an ancillary use. *(proposed addition)*

The proposed language is identical to the language that was approved in June of 2015 for the BC-1 district, with one exception. Subsection "e" from the previous approval, which stated that the vehicle rental business must be the sole use of the property, has been removed from the proposed language. Approval of this proposal would simply extend the same language, with the once exception, into the BC-2 district. There are currently three pockets of the BC-2 district in town, as shown in the attached zoning map.

Having subsection "e." removed would allow the vehicle rental business to be located in a multi-tenant commercial property, however staff recommends that subsection "g" be added which would continue to prevent the use from being permitted as an ancillary use. Because Conditional Use Permits are reviewed on a case by case basis for appropriateness, staff does not feel that it would be detrimental to omit subsection "e.". In future cases, staff review will be able to identify whether traffic flow within a multi-tenant commercial use would be negatively impacted.

Background Information

Presently, vehicle rental operations are not a permitted use in the Beach Commercial (BC-2) zoning district, they are permitted in the BC-1 district with an approved Conditional Use Permit. Although several local businesses offer loaner or courtesy cars to customers having vehicles repaired, Planning & Inspections staff is aware of only one (1) business in town that is renting vehicles at this time. Home Depot, which is located in a BC-3/PCD zoning district, rents large equipment and vehicles to customers, mostly related to construction projects, and recently was granted a conditional use permit after a text amendment was approved to allow truck rentals in the BC-3 district. The Town did approve a Conditional Use Permit for a Jeep rental business in the BC-1 district, however, that project has not moved forward.

Additionally, in January and February of 2013, the Kitty Hawk Town Council considered a proposal from Beach Ready Auto Repair (excerpts from minutes attached) to add vehicle rentals as part of a proposed expansion project at 500 Sand Dune Drive. Although the Council members voted unanimously to approve a conditional use permit to expand the existing motor vehicle repair and service business, they specifically added a condition that a vehicle rental operation is not permitted.

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The Town Council members mentioned the following concerns as rationale for denying the proposed vehicle rental operation:

- a.) Vehicle rental is not an accessory use to a vehicle repair business.
- b.) The applicant did not define a limit on the number of rental vehicles.
- c.) The rental operation could potentially cause problems with the amount of parking on the site.

The proposed conditions put forward address those concerns that were cited by Town Council in 2013. The main difference between the current application and the case in February of 2013, is that condition (g) would prohibit a vehicle rental business that is an accessory use to any other businesses. Additionally, condition (b) would limit the number of vehicles in the fleet to 15, and condition (a) would limit the number of vehicles to be parked in front of the use to three (3), thus not taking up valuable parking spaces. Additionally, the requirement of the remainder of the fleet being house inside or behind the building would limit the availability of units that could house such a use. As stated above, although the proposal would allow a vehicle rental business in a multitenant building, the conditional use permit process allows staff, the Planning Board, and Town Council the opportunity to review each application on a case by case basis to determine whether the use would be detrimental to other uses within the building.

In July of 2013, it appears that the Planning Board reviewed an application to allow vehicle rentals in the BC-1 district, although staff has not found any record of it going to public hearing with Town Council. This application proposed to allow vehicle rentals only as an ancillary use to an existing, approved commercial use, subject to various conditions. The application was recommended for denial by the Planning Board, reasons cited include traffic flow concerns with multiple uses, vehicle rentals could potentially be established on any BC-1 zoned property, the wording of one of the conditions could allow a large number of rental vehicles in the fleet, no restriction of size of the rental vehicles, and general agreement with the rationale to deny vehicle rental in the Beach Ready Auto CUP Application. The current application has addressed most of the concerns listed. Per the current proposal, the entire fleet would be restricted to 15 vehicles; no high occupancy vehicles would be allowed; the Beach Ready Auto decision should not be a factor, as they (as well as the July 2013 proposal) desired the vehicle rental to be an ancillary or accessory use, the current proposal regulates that it can be the sole business. To the issue of potentially allowing vehicle rentals in any property zoned BC-2, as well as the traffic flow concern, any potential vehicle rental business would be reviewed on a case-by-case basis, and if is deemed inappropriate in a certain location, it could be denied, while still allowing the use in a different, more use-appropriate location in the zoning district.

In April of 2014, the Town Council also heard an application for a text amendment in the BC-1 district for vehicle rentals. The proposal would have allowed vehicle rentals as a stand-alone use, either as the sole use of a property, or as one of many tenants on a multi-tenant property. The proposal was denied with the main concern of that review being allowing the use in a multi-tenant building and the parking problems it could potentially create. Again, it is staff's position that being allowed as a conditional use allows the Town to review each application to determine appropriateness of the location, and/or to impose site specific conditions that would lessen the impact. Additionally, condition (a) resolves part of the concern with burdening the parking lot, as well as limiting available locations for the use. The approval of the most recent application also put into the ordinance parking standards for a vehicle rental business, requiring one parking space per 200 square feet of office space, therefore available parking would be looked at in each application. To further address this concern, a condition could be added that prohibited customers' vehicles from being left on site, although enforcement of this could prove to be challenging.

Another concern cited in the April 2014 minutes was that a previous application had already been denied (referring to the Beach Ready Auto conditional use application). The current application differs greatly from the Beach Ready Auto application, as that was for an accessory use to their existing auto repair business. It also varies from the April 2014 denied application in that a) that application was for the BC-1 district, as this one is for BC-2, and b) this application attempts to address the parking issue by requiring the majority of the fleet to be parked either inside, or in the rear of the building, not using parking spaces that other tenants might need. The application before the board currently most resembles the application that was approved in June of 2015.

Excerpts from the above mentioned meeting minutes are attached.

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Staff Analysis

Vehicle Rental Requirements - Other Local Communities:

Manteo:

No specific requirements.

Nags Head:

No specific requirements.

Kill Devil Hills:

No specific requirements.

Southern Shores:

No specific requirements.

Duck:

No specific requirements.

Dare County:

Permitted use in allowed districts. No listed conditions or standards.

Currituck County:

Automotive Sales & Rentals - Uses primarily involving the sales or rental of automobiles, trucks, recreational vehicles, or travel trailers, shall comply with the following standards:

- (a) The use shall be located on a lot of at least 40,000 square feet in area and a minimum lot width of 125 feet;
- (b) The use shall not have more than one vehicle display pad for every 100 feet of street frontage. The vehicle display pad may be elevated up to two feet above adjacent displays or grade level;
- (c) Vehicle displays may not take place within required setbacks and shall include a Type A perimeter landscaping buffer between the display area and the street;
- (d) Vehicle display areas shall be surfaced with concrete, asphalt, or other permanent surfacing material other than crushed stone;
- (e) No vehicles or other similar items shall be displayed on the top of a building;
- (f) All lights and lighting shall be designed and arranged so no source of light is directly visible from any adjacent property; and
- (g) Light repair and service functions are permitted as an accessory use provided all repair-related activities take place within an enclosed building.

Consistency w/ Land Use Plan

The Town's adopted CAMA Land Use Plan does not, specifically or generally, address the topic of vehicle rental businesses.

Planning Board Recommendation

At its December 17, 2015 meeting, the Planning Board unanimously recommended approval of the proposed text amendment to add language to the Kitty Hawk Zoning Ordinance that would allow vehicle rentals in the BC-2 district, subject to certain conditions.

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Mayor Perry asked if anyone wished to comment on this application. No one from the audience came forward.

Pruitt: *Is this just a day rental or is this where you can rent them for a week or ...*

Testerman: *It is not specified in the application. I assume it would be for a day rental but like I said they did not specify. It's my impression people are coming and leaving their cars in the parking lot. There could be a condition added that customer cars could not be left there but I think enforcement would be difficult. Dealing with the Conditional Use Permit, if it were to be approved as a text amendment, each application would have the parking situation in that particular development looked into. For this one there is a total of 16 spaces, I think, that are directly in front of their two units. So for this one it would be a little more reasonable. Whereas if it was one of the units in the middle of the building where there are only a few parking spaces out front it might not be as appropriate. All the times I have been by there since this came in the parking along the south side is ... I have never seen any vehicles there except one day I caught the applicate there when I was posting the signs. It does not seem like that southern end of the building gets parked in too often.*

Hearing no further comment or questions, **MPT Garriss moved to return to regular session. It was seconded by Councilman Bateman and passed unanimously, 5-0.**

Bateman: *We have had this same, basically the same use, come before us two, three times? I cannot with a clear conscious give a favorable vote to this after denying the other individuals who also came before us. This morning I went by there and yesterday morning at 8 o'clock I rode by there. There were 8 cars on the northern section of the parking lot and they came from, I guess, the automotive place. They must have been cars he was working on or had worked on. Today at 8 o'clock there were 11 and at 2:30 in the afternoon there were 13. I think that parking lot is really jammed up. I cannot see how those two end spaces, which is where this guy is going to go, is going to have any places to park any cars out there. Especially if he has up to 15. You cannot put 15 inside. You are not going to be able to put 3 out front and 12 inside. I do not see how that can work.*

Garriss: *I agree. We have been down this road many times before. The gentleman is in the audience tonight that was denied a number of times. The number of vehicles, the parking, the neighboring businesses and the neighborhood is why I am not in favor of this.*

McClean: *I feel the same.*

Pruitt: *Like you said we have been down this road quite a few times and out of fairness to the past applicants and for the reasons that have been discussed I feel the same way.*

Perry: *The way I am hearing it is you have an enforcement problem because it is a multi-tenant business. In the BC-2 district, as you have wisely looked into, this could open it up for several*

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multi-tenant businesses which would give us a real enforcement problem. Customer cars are another issue. Again, how do you know whose car belongs where and it might crowd out the parking lot. I have been there many times and seen the lot full. So it is a multi-tenant issue that goes against it. We have turned it down before in similar motions in the BC-2. Do I hear a motion to deny this?

Councilman Bateman made a motion to deny the proposed text amendment adding subsection 42-251(c)(34) allowing vehicle rentals as a conditional permitted use in the Beach Commercial (BC-2) zoning district subject to certain conditions. Town Council finds that the proposed text amendment is (not) consistent with the adopted CAMA Land Use Plan and finds these amendments (not) to be in the public interest by creating greater opportunities for local businesses. Councilwoman McClean seconded the motion and it passed unanimously, 5-0.

b.) Conditional Use Permit: Application for a Conditional Use Permit to allow a vehicle rental business at 500 Sand Dune Drive, Units A and B.

Attorney Michael suggested council vote to deny this because it is not permitted in that district.

MPT Garriss voted to deny approval of the proposed conditional use permit to allow the establishment of a vehicle rental business at 500 Sand Dune Drive subject to conditions included in the staff report. The Town Council finds that the proposed use is (not) consistent with the Town's adopted Land Use Plan and finds this (not) to be in the public interest. Councilwoman McClean seconded the motion and it passed unanimously, 5-0.

c.) Conditional Use Permit: Shared parking agreement between the proposed Wendy's location at 5430 N. Croatan Highway and the adjacent Shoreside Shopping Center location at 5400 N. Croatan Highway.

There was no need for council to consider this CUP.

d.) Conditional Use Permit: Application to issue a formal approval of the existing sewage treatment plant located at 5400 N. Croatan Highway, Shoreside Center, as well as approval for the proposed Wendy's to tie into the existing system.

MPT Garriss made a motion to go into public hearing. It was seconded by Councilman Pruitt and passed unanimously, 5-0.

Town Clerk Morris provided the oath to Planning Director Testerman and each of the speakers before they spoke during the hearing.

PD Testerman reviewed the following staff report that is provided in the borders below.

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Proposal

The applicant is requesting approval of a conditional use permit for the existing, privately-owned, Shoreside Center sewage treatment collection, treatment plant, and drainfields system. Although required by ordinance, via 42-513(a), a CUP was never issued for the existing system when it was established in the 1990's. This application requests formal approval of the existing system that currently serves McDonald's, Wal-Mart, Harris Teeter, as well as to add service to the proposed Wendy's parcel.

Conditional Use Standards

Subsection 42-513(a) allows a private utility with the following conditions:

1. The facility must be a part of and located within a subdivision or PUD.

*The existing STP meets this requirement.

2. The private utility shall be used and serve only the occupants of the subdivision, PUD, multifamily development, or commercial development for which it was constructed and approved by the town.

*The system complies with this requirement for McDonald's, Wal-Mart and Harris Teeter. The applicant has recently recombined lots that has made the Wendy's parcel a part of the subdivision.

3. Proposed schedule of user fees and charges shall be submitted prior to Planning Board recommendation.

*According to the applicant, because this is not a public utility, it does not charge user fees, instead it allocates costs. Each user is currently billed quarterly for their share of operation and maintenance costs based upon the amount of water metered to each user divided by the amount of water metered to all users served.

4. All associated odors are to be contained within the boundaries of the site

*Staff is unaware of any complaints of odors generated from the existing operation.

5. The developer shall post a surety bond in the amount of 125% of the repair, maintenance, replacement and renovation costs to maintain the facility for a period of 15 years.

*The existing facility has been operational in excess of the 15 year requirement, had a surety bond been in place, it would have expired by now. Should a surety bond be required, the projected 15-year maintenance, replacement and renovation cost from today is \$56,250, and the 125% bond amount would be \$70,313. The Planning Board did not recommend requiring a new surety bond.

6. The facility shall be designed and constructed based upon the capacity calculated in gallons of flow per day (GPD) utilizing health department standards.

*The health department has issued a "conditional approval" for adding Wendy's to the existing system.

7. Wendy's connection to the system requires approval by Shoreside STP.

*Mr. Tom Wheeler, Peachtree Shoreside LLC, has issued a statement accepting Wendy's wastewater for treatment by the existing utility.

8. The entire system must be located on property owned or controlled by the person owning or controlling the system.

*This application is compliant with this requirement.

Background Information

The subject properties consist of the Shoreside Shopping Center (Harris Teeter & Wal-Mart properties), McDonald's, all zoned BC-3, and the proposed Wendy's parcel, zoned BC-1.

The abutting property to the west is a narrow strip of undeveloped land owned by Kitty Hawk Estates, zoned BR-1, and past the strip are single family residences in the Kitty Hawk Estates subdivision. To the north is a variety of commercial uses, zoned BC-1, uses include the Dare County ABC store, Carawan's Seafood, BB&T Bank, and Gateway Bank, further north, across N. Croatan is the shopping center located within Southern Shores. The adjoining

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property to the east is zoned BC-3/PCD and houses Home Depot. To the south of the subject parcel is property owned by Diamond Resorts, and is part of the Beachwoods timeshare development.

Land Use Plan

The Town of Kitty Hawk's adopted CAMA Land Use Plan designates the subject property as a "Commercial, Shopping, and Working Area" on the future land use map.

The following policies and objectives relevant to this application are stated in the CAMA Land Use Plan:

Policy #18a: Kitty Hawk recognizes the use of individual on-site sewage treatment as the primary method of wastewater treatment in Kitty Hawk and will continue to utilize the Dare County Health Department to regulate (permit and monitor) systems. Package treatment plants should be considered only when natural conditions prohibit the use of septic systems, as remedial efforts to correct existing failing septic improvements, or if required by ordinance and should be constructed to serve a specific development without excess capacity for off-site wastewater treatment connections. Maintenance of privately owned package treatment plants should be supervised by the NC Utilities Commission or other public agencies.

Conditional Use Findings

Per the standards of Section 42-99(b)(7), in order to approve this application, the Town Council must make findings that the proposed conditional use:

a. does not materially endanger the public health or safety,

*If all necessary permits are issued and work is done in compliance for adding Wendy's to the existing system, there is no reason to assume there would be any danger to public health or safety.

b. does meet all required conditions and specifications,

*As noted above in the staff report, all required conditions have been met.

c. will not substantially injure the value of adjoining property or be a public nuisance, and

*The facility has been operational since the 1990's with no known injury to adjoining property value, there is no indication that allowing the proposed Wendy's to connect would create such an issue either.

d. will be in harmony with the area in which it is located and be in general conformity with the comprehensive plan.

The addition of Wendy's to the system, allowing Wendy's to be built would be in conformity with the comprehensive plan, as this location is identified as a "Commercial, Shopping, and Working Area."

Planning Board Action

At its December 17, 2015 meeting, the Planning Board unanimously recommended approval of the conditional use permit, establishing a formal approval for the existing sewage treatment plant, and permitting the proposed Wendy's restaurant to utilize the system as well.

1. Crouse Gray, Attorney: *I am an attorney and have been retained to try and assist with getting the necessary approvals for the Wendy's project. Technically I am representing the owner of the land upon which this is hopefully going to be approved and built. I want to present to this board an affidavit that I have had executed to basically articulate that the ownership interest we have is one and the same player. Two different names but 1600 Peachtree, LLC, the owner of the Wendy's site, is in fact the sole member of Shoreside Peachtree, LLC and controls that entity. I thought it would be best for this board to have an affidavit certifying that. So may I present this to the clerk?*

Perry: Yes.

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Gray: *Other than making sure that we present information about the ownership is the ordinance talks about a bond being required. There is an issue from my perspective ... you have to understand I am an attorney. I read little, teeny words and commas and periods and go okay what does this mean. Your bond requirements came into play after this particular sewage treatment facility was approved so the issue is whether we have to put up a bond now for repair of this facility. This facility is owned by the people who use it. In other words Peachtree Shoreside LLC owns and operates it but the people who actually are paying for it are Harris Teeter, Wal-Mart and Wendy's. I submit to you that those people are not going to let this sewage treatment plant go down, any of them, because if it goes down they cannot operate and they cannot make money. So I respectfully submit that the bond requirement is not something that is necessary for this particular plant. It has been there in excess of 20 years. As far as I can ascertain there is absolutely no evidence that this plant has ever had any problems or any complaints so I respectfully submit to you that requiring a bond at this particular point in time would be useless and putting money up for no reason.*

Barrier Island had an agreement with the Town where Barrier Island put money aside every time they sold a week. I know because I was the escrow agent. I am still holding \$25,000 or so to make sure that that plant gets maintained. In this particular circumstance I do not think that requirement is needed.

Perry: *The State should be having a part in making sure they are maintained and kept up. Is that true on this plant or not?*

Gray: *I will be honest with you I do not know the answer to that but I have somebody here that does know the answer. May I ask the engineer for the plant to respond to your inquiry?*

2. Ralph Calfee, Engineer: *All systems that use subsurface disposal in Dare County are regulated by the Dare County Health Department under North Carolina regulations. This is not like the days of old when somebody would build a plant and then nobody ever knew what happened to it. It is not like that at all. There are semi-annual, annual inspections, reporting, a whole kit and caboodle, so there is absolute assurance that the plant will be monitored by a regulatory agency.*

Perry: *That's what I wanted on the record. Thank you.*

Bateman: *Does that \$25,000 in escrow follow this plant or does it go back to the Barrier island folks?*

Gray: *Your ordinance provides that after a 15 year period it would be returned to whoever put the money up. That 15 years has not expired so it is still sitting in an escrow account. In all candor I am no longer attorney for the particular parties who are developing that and I will be turning it over to their new escrow agents as soon as they figure out who it is going to be.*

Testerman: *There is no recommendation to set a bond.*

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Perry: *Does anyone else want to speak during this part of the hearing?*

No one else came forward to speak.

Councilman Bateman “so moved” to go back into regular session. **Councilwoman McClean** provided a second and the vote was 5-0.

Councilman Bateman made a motion to grant approval of the proposed Conditional Use Permit to allow the formal approval of the existing wastewater treatment plant at 5400 North Croatan Highway as well as the addition of the proposed Wendy’s to the system. Town Council finds that the proposed Conditional Use Permit is consistent with the Town’s adopted CAMA Land Use plan and finds that the application to be in the public interest. **Councilwoman McClean** made a second and the motion passed unanimously, 5-0.

9. PLANNING

a.) Unfinished Business: Application for a Conditional Use Permit to allow construction of a medical office at 5201 N. Croatan Highway.

Attorney Ben Gallop represented the Town for this agenda item.

Perry: *I am going to read something for the record that changes a little what we normally do. The planner has advised that as a result of the hearing held in January 2016 the project engineer has looked closely at those things that might be revised to accommodate adjacent owner concerns. In order for council to consider any revision it will be necessary to reopen the hearing and receive sworn testimony from the planner and engineer.*

Town Attorney Steve Michael has recused himself from providing Town Council with legal advice since he also represents the applicant in various other matters. In his stead, Attorney Ben Gallop is retained to provide legal advice for this issue. Legal counsel has reviewed the proposed revisions to be presented and advised that none of it will require additional review by the planning board. Additionally, council can allow or not allow public comment in addition to the planner and engineer.

Before I motion to return this issue to open hearing I ask each council member to advise if you want to allow public comment in addition to the planner and engineer or only consider just any new information plus what was learned at the original hearing.

Craig?

Garriss: *We heard many good comments at the last meeting. The room was packed and I see a lot of familiar faces and some new ones that were not here at the last meeting. I appreciate you coming out. I am satisfied with what I heard from the public at the last meeting.*

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Bateman: *I agree.*

McClean: *No additional comment needed.*

Pruitt: *Agree.*

Mayor Perry made a motion to reopen the public hearing for the CUP application constructing a medical office at 5201 North Croatan Highway. It does not include additional public comment. Councilman Bateman seconded and it was unanimously approved, 5-0.

Clerk Morris administered the oath to Planner Testerman at this time and Engineer Strader before he spoke later in the hearing.

Testerman: *After hearing numerous concerns from neighboring residents, and meeting personally with staff and a couple of residents, the engineer relooked at some of the issues in an effort to ease those concerns. The engineer relayed to me they attempted a variety of site layouts as one of the concerns was they would prefer to see the building placed closer to the east side of the property. Due to site constraints, dealing with the existing non-tidal wetlands, parking requirements and the septic system location, it sounded like it was not possible for them to relocate the building.*

Another neighbor I spoke with had raised a question of had a two story building been looked into to lessen the footprint with less impervious surface on the property. I spoke with the engineer and he said they looked at that but it was counted out pretty early on in the planning phases. It just would not work for a variety of reasons.

One of the main concerns that came up at the last meeting was flooding that could be caused by the fill on the property and the proposed retaining wall. Currently, a number of the residential lots to the east of the subject property drain to the applicant's property creating a non-tidal wetland that is proposed to be filled as part of the project. The concern is that the subject property will no longer accept as much runoff from the adjacent properties. That water will not have anywhere to go. The engineer reworked the stormwater management in an attempt to take on more of the runoff than was originally proposed. With the additional proposed grading it would be intended to prevent the pull of the water behind the retaining wall and in one corner you can see they have done some additional grading and dropped the retention area about a foot lower than was originally proposed. They have also sloped the east side of the property as an effort to get it to pour down into that retention area.

I should point out, as Mr. Hargrave mentioned earlier, when DOT reviewed and issued the encroachment permit it was under the assumption of the planning board recommendation of having Byrd Street closed off and not being a through drive. Should council approve it without the blocking of Byrd Street they will need to do a full traffic impact analyses. That is not to say it would not get approved but there would be some review that would go into that decision.

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Also keep in mind if the proposal is approved with Byrd Street blocked off as planning board recommended the fire hydrant on Lindbergh Avenue would no longer count towards their property. They are proposing to add one new fire hydrant to meet fire requirements but if Byrd Street is not connected they would have to add two new fire hydrants to meet the fire standards.

Perry: *The bollards across Byrd Street. What was that all about?*

Testerman: *It was not on the original site plan. It came up during the planning board review to prevent so much traffic going through there and a revised plan was sent to DOT for their review. There are two proposed Type III breakaway barricades mounted in the pavement that are fully collapsible, reflective sheeting. In speaking with the engineer and the fire chief on that the concern is if a fire truck needs to get back in this area they are not collapsible in the sense that you can just drive over them. You still have to stop and remove a screw and fold them down, delaying any kind of response time back there.*

Perry: *I do not like that. I have been to those meetings where the discussions have been about US 158 and NC 12 and all of the congestion that accumulates there in the summertime particularly during peak days. If we do not have a full ride through Byrd Street so people can get to it from other ways ... and they are trying to make a left turn at that curve. It looks to me like you have to have a back door. I just don't see how you could do it otherwise but I'll listen to the other comments on it. There was talk about some sort of a stone ornamental wall instead of ...*

Testerman: *I have been told it sounds like the preference has started leaning back towards the lumber that was originally proposed. (There were nods of approval from people in the audience.)*

Bateman: *You said they are going to have to add two new fire hydrants?*

Testerman: *If Byrd Street does not connect all the way through they will have to add two. If it connects through then one of the existing hydrants would be able to count towards the distance that is needed to meet those standards.*

Bateman: *Was there any discussion about the lighting the gentleman mentioned?*

Testerman: *We have not gotten a lighting plan yet. It will have to meet the Town's standards which includes no glare onto neighboring properties and a certain amount of foot candles for each use that would be low level. In discussions with the engineer, in that the use is a doctor's office, I don't think they plan on having the parking lot lit up all hours of the night. Possibly some security lighting after hours.*

Bateman: *I have no problem with the drive through on Byrd Street.*

Testerman: *In discussion this morning with the fire chief, if traffic is a concern, rather than blocking it off we thought about the possibility of having this as a right turn exit only. There would*

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not be people stacking up in the middle of August waiting to turn left and backing cars all the way up the road. I don't know if that's our or DOT's call but I just wanted to mention that as well.

Pruitt: *What is the applicant's and engineer's preferred traffic pattern?*

Engineer Michael Strader: *It is the applicant's and my own preference to have that Byrd Street right-of-way a through access however we are trying to be as easy to work with as possible and work with the neighbors so we will go either way. The purpose of why we want that to be a through street is it will allow for easier turning movements for folks leaving and wanting to head south and not to mention the fact that from either direction, from the east or the west turning, no matter how many signs we put up there saying no thru street there will be folks that turn in and have to find their way back out. That is the preference and I think Rob has pretty clearly explained that we are willing to erect the breakaway bollards and work with the fire department in any way possible.*

Perry: *How much additional water are you able to retain after you went back and recalculated?*

Strader: *We are retaining approximately the same amount for the new proposed coverage on our site. We appreciate the opportunity to have heard and then actually sit down with some of the neighbors. We feel like we came up with a really good plan to provide additional runoff and I can equate that to a volume but there is also subsurface in the void space. I feel really confident that this new proposed bulkhead is not going to dam or create any ponding behind the wall at this point. We are providing an outlet to Mr. Hargrave who is well aware that he is at a low elevation and we were able to decrease the proposed elevations in the rear of Mr. Wilkinson's property and actually extend that. We pulled it into the north side of the Byrd Street right-of-way and created a minor swale behind the retaining wall to draw any of the potential runoff coming from the back of his property and provided the opportunity to infiltrate in the depression.*

Perry: *You have made an honest effort in, as far as I can tell, pretty much every way. Council any more questions? If not do I hear a motion to go back into regular session?*

MPT Garriss "so moved" to go back into regular session. Councilwoman McClean seconded the motion and it passed unanimously, 5-0.

Garriss: *Mr. Hargrave I appreciate your comments at the beginning of tonight's meeting.*

Hargrave: *I have a couple more.*

Perry: *We have a public comment at the end of the meeting.*

Garriss: *I still have a concern with the traffic. I am not at all in favor of blocking off Byrd Street. I have a concern with the access to 158. Coming from someone who has spent most of his life enforcing things that are written on signs, people do not always obey signs. If they want to turn*

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left they are going to turn left and it is a bad intersection for people coming out of there. I don't know what the answer is. I look forward to a traffic study from DOT.

Perry: *The concern I have is not just the traffic. I appreciate the fact that the engineer went above and beyond trying to accommodate, to the best of his ability, what is a lot that has a right to be built on. It's that simple. Also, looking at the back of a building, with all the appurtenances that a building like Ambrose has versus the front of a building that has a basically a porch ... yes it may be a parking lot but it's nicer looking to me than the back of a building.*

Pruitt: *I'm glad to see the residents, engineer and staff getting together and trying to solve some of these problems. It's good to see and I hope it benefits both.*

Perry: *And just so you folks know I did not meet with Mr. Hargrave but the engineer and planner did. He asked to meet with me but we had already had a hearing and it would have been inappropriate, and probably illegal, for me to do that once the hearing had commenced. Before that I probably could have spoken with him but I did not for that reason. Are we ready to make a motion?*

Councilman Pruitt moved to grant approval of the proposed Conditional Use Permit to allow the establishment of medical offices at 5201 North Croatan Highway subject to conditions included in the staff report. The Town Council finds that the proposed use is consistent with the Town's adopted CAMA Land Use Plan and finds this to be in the best to be in the public interest. MPT Garriss provided a second.

Bateman: *Do I need to put in the motion that I want them to get the lowest level of lighting possible? I know we have standards but I want to make sure they get that because it is a neighborhood.*

Pruitt: *Also, are we approving with Byrd Street going all the way through?*

Gallop: *I believe so. The staff proposed conditions do not include the Byrd Street blockade. That was a planning board recommendation and you only adopted the staff comments. I will note that one of the proposed conditions from staff was that all exterior site lighting must be included in the calculations for a final lighting plan to be approved prior to the issuance of a building permit. I'm not sure if that answers your question directly or not but that is a condition that would be adopted by the motion. You may want to modify it.*

Bateman: *The ordinance also allows for lighting like we have at Wal-Mart. I do not want that there. Those folks deserve to have low level lighting that meets our standards.*

Gallop: *In that case then the motion would probably need to be modified to adjust that condition.*

Bateman: *Do you have a problem with doing that?*

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Pruitt: *No. With the addition of low density...*

Gallop: *Maybe the least obtrusive lighting that can satisfy the needs of the applicant. Do you have a standard you are thinking of?*

Bateman: *Just low level lighting.*

Gallop: *Do you have a maximum height that you would like?*

Bateman: *Ten feet, twelve at the highest.*

Gallop: *Do we have any indication from the engineer that that would be a problem?*

Strader: *It would not be a problem to keep them lower than typical for parking lot lighting. In fact, if it meant they are on for the duration of business hours and then actually off, I think the applicant would be okay with that.*

Pruitt: *With the addition that the lighting be no more than twelve feet in height.*

Gallop: *Then you would want another second and check to make sure that no one objected to modifying the motion.*

Councilman Bateman provided a second.

Councilmembers were polled to see if they had an objection to modifying the motion. No one did and **the motion passed unanimously, 5-0.** Attorney Michael returned to the dais.

b.) Site Plan Review: Site plan application for new construction and development of Wendy's to be located at 5430 N. Croatan Highway.

PD Testerman reviewed the staff report in the bordered area below.

Proposal

The applicant is requesting site plan approval for the proposed development of a Wendy's fast food restaurant. The site is currently undeveloped and is 28,668.5 sq. ft. (0.66 acre) in area. The site location is zoned General Beach Commercial (BC-1).

Background Information

The subject property is 28,668.5 square feet (0.66 acre) in size and presently zoned Beach Commercial (BC-1). The property currently is undeveloped.

The abutting property to the west is also zoned BC-1 and contains the Dare County ABC store. The adjoining property to the east is zoned BC-1 and contains Carawan Seafood. To the south of the subject parcel is Wal-Mart, zoned BC-3. Across 158, to the north is the Town of Southern Shores.

Staff Analysis

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Proposed Use: Wendy's fast food restaurant, a use allowed by-right.

Lot Area: The subject parcel is 28,668.5 square feet (0.66 acre) in size. The size of the property exceed the minimum lot size of 15,000 square feet for commercial development in the BC-1 district.

Lot Coverage: The BC-1 district has a maximum lot coverage requirement of 60%. After all proposed improvements have been made to both parcels, the lot coverage for the Wendy's site will be 59.3% (16,988.1 sq. ft.).

Open Space: As proposed, the Wendy's site would have 40.7% open space, which meets the minimum requirement of 35%.

Building Height: The maximum height in the BC-1 district is thirty-five feet (35') from the existing grade to the peak of the roof. The proposed building will only be one story in height, well under the maximum height standards.

Building Setbacks: The building setbacks are as follows:

	<u>Proposed Setbacks</u>	<u>Required Setbacks</u>
Front	52 feet	15 feet
Rear	63.6 feet	20 feet
Sides	36 feet (west)	10 feet
	65 feet (east)	10 feet, or 0 with a common wall

All proposed improvements are compliant with the Town's setback requirements.

Access: The subject property would not create a new curb cut onto Rt. 158. Instead, on the south side of the property, the applicant proposes an ingress/egress point to be created to access the internal drive that services Wal-Mart and various other commercial developments.

Parking: The minimum number of parking spaces are calculated below:

<u>Parking Calculations</u>	<u>Size</u>	<u># Required Spaces</u>
Restaurant	1/100 sq. ft.	24.4 spaces

** This figures rounds up to a requirement of 25 parking spaces on the site.

The site plan shows 17 spaces on site. The remaining 8 spaces that are required are proposed to be used via a shared parking agreement with Shoreside Shopping Center

42-544(k) states that any off-street parking space required by any use permitted in any residential or commercial district shall be provided on the same lot with the use by which it is required, or in combination with an adjacent lot, provided the applicant has secured a shared parking agreement, and conditional use permit, as described in subsection 42-544(j).

ADA standards require a minimum of two (2) handicapped accessible parking spaces to serve this property. In compliance with this standard, two ADA accessible parking spaces are proposed.

Buffer: As all of the abutting properties are both zoned and used commercially, there is no buffer requirement for the subject property.

Waste Management: The sight plan provides space for a 10' x 20' dumpster pad to be located at the northern end of the property.

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Lighting: A lighting plan will be reviewed administratively to ensure the plan meets requirements of 42-515.

Signs: Two ADA Van accessible signs are proposed as well as a stop sign at the egress point, and an additional stop sign/do not enter sign at the end of the one way traffic loop. No freestanding or wall sign applications have been received at this time. They will be reviewed and issued administratively once submitted.

Wastewater Disposal: The application calls for Wendy's to tie into the existing wastewater system that currently serves Wal-Mart, Harris Teeter and McDonald's. With approval of the conditional use permit, and approval from the Health Department, this method will be acceptable.

Flood Zone: The subject property is presently located entirely within an X flood zone, which means that the additions are not required to meet any particular flood elevation.

Fire Department Review: The fire department has provided comments that would require that the drive aisle, both in the parking area, and around the building to the west be labeled "No Parking Fire Lane". Also, a new fire hydrant is required, it is the recommendation of the fire department that the new hydrant be located on the west side of the dumpster pad, water would be pulled from the line running along 158.

Land Use Plan

The Town of Kitty Hawk's adopted CAMA Land Use Plan designates the subject property as a "Commercial, Shopping, and Working Area" on the future land use map. The proposed development of a Wendy's restaurant is consistent with this designation in the land use plan.

Planning Board Action

At its October 15, 2016 meeting, the Planning Board unanimously recommended approval of the site plan for the proposed Wendy's.

Perry: This originally had the crosswalk towards the ABC store but I see the plan has been revised to show it on the south side, basically crossing on the border with Carawan. That will be marked properly and it is for employees only?

Testerman: Yes.

Hearing no further comments or questions, **MPT Garriss made a motion to grant approval of this site plan for the proposed Wendy's fast food restaurant at 5430 North Croatan Highway with the condition that the requirements of the fire department are met. Councilman Bateman made a second and it passed unanimously, 5-0.**

c.) Call for Public Hearing: Application for a Conditional Use Permit to allow a fitness center at 500 Sand Dune Drive. The public hearing will be scheduled for March 7, 2016.

MPT Garriss made a motion to set a public hearing at the Town Council meeting on March 7, 2016 to consider a Conditional Use Permit application to allow a fitness center at 500 Sand Dune Drive. The motion was seconded by Councilwoman McClean and passed unanimously, 5-0.

10. REPORTS OR GENERAL COMMENTS FROM TOWN MANAGER

a.) Thank You to Staff: Manager Stewart thanked the public works staff for cleaning up the beach road after the recent overwash.

b.) Rabbit Hollow Project Update: The Rabbit Hollow drainage project is under construction as of today and they hope to finish around the first of next week.

c.) Insurance Service Office Inspection: Later this month the ISO inspection will begin for the fire department. It is a rating system on such items as policies, equipment and staffing. It affects the property and casualty insurances for residents and business owners. The town currently is at a five.

d.) Beach Nourishment: The scheduled date for the bid opening is February 9th and not the 4th

e.) Thank You to DOT and Comments on Recycling Center: Mayor Perry added do not forget the State in the cleanup of NC 12. They jumped in, barricaded it off, cleaned up and were johnnie-on-the-spot. The Town could not get along without them. He added the recycling center is the cleanest he has seen it in a long time and they are doing a good job. He asked that his comments be expressed to the staff.

11. REPORTS OR GENERAL COMMENTS FROM TOWN ATTORNEY

a.) Update on Easements for Beach Nourishment

Michael: *We still need 46 more easements. We are continuing to field calls from people and talk to them. Some say they are going to send them back, others say ...*

Perry: *Do you need, at this meeting, direction to proceed further?*

Michael: *I need direction from the council to proceed with sending out the letters about mid-February to those who have not returned easements giving them a 30 day notice that our intent is to file condemnation.*

Perry: *Are we in consensus that we need to let him do that?*

There was a council consensus for Attorney Michael to send out the letters. He announced he would wait until after the bid openings.

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12. REPORTS OF GENERAL COMMENTS FROM TOWN COUNCIL

a.) Regional Planning Organization Update: Mayor Perry reported that at a recent meeting the RPO for NCDOT voted unanimously not to vote on ferry tolls. The short-session legislature is going to take it up again and try and move money back into State Highway Capital Improvements where it really belongs. The RPO did not vote on it and will not vote on it until after the short session.

13. PUBLIC COMMENT

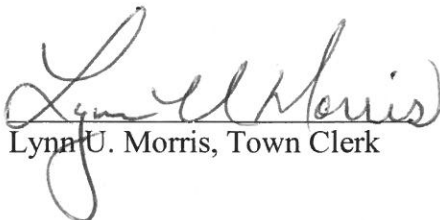
1. Hargrave: *I want to point something out to you. I know Michael Strader just left but the revised plans, in my opinion, show several changes that nobody has taken into consideration. He has lowered the top of the retention pond under the building. He raised the bottom level of that retention pond and he has put in a spillway from that retention pond down into a ditch bordering Byrd Street running down into the very area that we said was going to flood. I do appreciate the fact that they have done some changes with grades along the back of the property and that will help some in that regard but there are major changes, in my opinion major changes, to the plan that should be looked into. I think it jeopardizes his DENR permit for this water quality management and nobody seems to have taken a look at it. Again, I think it violates your flood ordinance.*

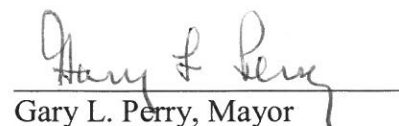
No one else came forward speak.

14. ADJOURN

MPT Garriss made a motion to adjourn. It was seconded by Councilman Bateman and the vote was unanimous, 5-0. Time was 7:03 p.m.

These minutes were approved at the March 7, 2016 meeting.


Lynn U. Morris, Town Clerk


Gary L. Perry, Mayor